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IN THE UNITED STATES DISTRICT COURT OF CALIFORNIA
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EMMA C., et. al.,)	CASE NO. C96-4179 TEH
)	
Plaintiffs,)	STATE DEFENDANT CALIFORNIA
)	DEPARTMENT OF EDUCATION'S
v.)	SUGGESTED REMEDIAL PLAN FOR
)	DEFENDANT RAVENSWOOD CITY
DELAINE EASTIN, et. al.)	SCHOOL DISTRICT
)	
Defendants.)	Date: June 18, 2002
)	Time: 10:00 a.m.
)	Dept.: 12

INTRODUCTION

Ravenswood City Elementary School District (RCSD) is in the unique and dubious position of being the only school district in California in recent history that has been found in contempt of a federal court order as a result of clear and convincing -- indeed overwhelming -- evidence. *Order Re: Contempt*, p. 18. After reviewing the record, the Court was amply convinced that RCSD had failed to take all reasonable steps in its power to comply

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3 with the Ravenswood Corrective Action Plan (RCAP). *Order Re: Contempt*, p. 19. The Court
4 found that the administration has often been affirmatively resistant, not just inattentive, to
5 compliance with the RCAP. *Order Re: Contempt*, p. 24. Even given the finding of contempt,
6 and given yet one more opportunity to correct its pattern of misconduct, the district continues to
7 refuse to comply with the law. *See, RCAP Report Card, May 2, 2002*.

8 This Court has noted that ordering a takeover of a school district is an
9 “extraordinary remedy” to be invoked only “when the facts indicate that all other remedies will
10 fail.” *Order Re: Contempt*, p. 31. This Court also noted that if, in extraordinary circumstances,
11 a takeover it is the only reasonable alternative to noncompliance with a court remedy, then it
12 may, with appropriate restraint, be ordered. *Order Re: Contempt*, p. 31. The Court has already
13 cautioned RCSD that it would closely evaluate RCSD’s attitude toward the remedial process,
14 and its level of cooperation with the Court Monitor. *Order Re: Contempt*, p. 38. And while the
15 district’s pronouncements of a changed attitude were welcomed by the Court on October 4,
16 2001, the Court pointedly forewarned RCSD that general expressions of good intentions rapidly
17 lose credibility and force if they are not reinforced by improved conduct or, worse yet, if they
18 are undermined by inconsistent messages or actions by either the Board of Trustees, the
19 Superintendent, school principals, or other district administrators. *Order Re: Contempt*, p. 39.

20 This Court has given RCSD one final opportunity to comply with the
21 Ravenswood Corrective Action Plan (RCAP). And, in response, RCSD has clearly
22 demonstrated, once again, that it cannot or will not comply with the Court’s order. *See, RCAP*
23 *Report Card, May 2, 2002*. Whether the continued failure is due to total lack of leadership at
24 the Superintendent and Board of Trustees (Board) levels, or to the incompetence of those whom
25 the Superintendent has hired, or both, the time has come for this Court to decide the appropriate
26 remedy for RCSD’s violations.

27 While state defendant California Department of Education (CDE) does not know
28 the full extent of the district’s problems, it is clear that the current delivery of special education
services falls far short of the mark. This Court must consider the facts presented at the June

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3 hearing and determine whether and to what extent further information is needed, and fashion an
4 appropriate remedy.

5 One potential remedy is to order the district to apply for an emergency
6 apportionment (loan) pursuant to Education Code section 41320, et seq., which could then
7 trigger an existing statutory framework for remediation, including the appointment of a trustee
8 or the assumption of governing board rights, duties, and powers by the Superintendent of Public
9 Instruction and the Court could specifically appoint a special administrator or director for
10 special education.

11 Another potential remedy is, is for Court with the appropriate restraint, to
12 directly order the appointment of an administrator to temporarily assume the rights, duties, and
13 powers of the Superintendent and the RCSD governing board as a result of RCSD's repeated
14 failures to comply with the RCAP. While CDE makes these recommendations as potential
15 remedies, other suitable remedies may also be available for consideration.¹

16 The submission of this plan is intended to assist the Court in its consideration of
17 the appropriate remedy, but the plan is by no means, presented as the only remedy. Further,
18 depending upon the ultimate remedy decided upon by the Court, CDE reserves the right to
19 comment upon that remedy, if necessary.

20 **I.**

21 **THIS COURT HAS THE POWER TO TEMPORARILY**
22 **SUSPEND THE SUPERINTENDENT'S AND BOARD'S**
23 **AUTHORITY OVER THE AFFAIRS OF THE DISTRICT**

24 As the Court noted in its *Order Re: Contempt*, the fact that local officials are
25 "elected. . . cannot put them beyond the reach of the law." *Order Re: Contempt*, p. 31, citing
26 _____

27 ¹ As of the date of the submission of this Proposed Remedy, state defendant CDE has not yet
28 completed the review of the documents received from defendant RCSD on May 29, 2002. The
document filed with the Court on April 29, 2002 by RCSD entitled "Accomplishments and
Progress" provides no concrete information regarding the compliance with the RCAP. Further,
the district's teachers have intervened and may be able to provide information not known to the
Court. Direct involvement of the County, with its statutory responsibilities for oversight of
RCSD, should also be considered as another possible remedy. Ed. Code sec. 1240.

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3 *Morgan v. McDonough*, 540 F. 2d 527, 534. Courts are empowered to appoint receivers to take
4 over state or local institutions, including local schools, if necessary to enforce a court order. *Id.*
5 RCSD itself has more than demonstrated that a receiver, with specified authority, is necessary in
6 order to have effective compliance with the RCAP and provide the necessary services to the
7 children of the district.

8 As a result of the Superintendent's and the Board's repeated failures to comply
9 with this Court's orders and their apparent ongoing indifference to those orders, CDE
10 respectfully recommends that this Court consider temporarily suspending the authority of the
11 Superintendent and the Board.

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13 As demonstrated by the *RCAP Report Card* issued by the Monitor on May 2,
14 2002, RCSD has, once again, failed to comply with the requirements of the RCAP. Such failure
15 provides yet more evidence that the Superintendent and the Board will not or cannot comply
16 with the orders of the Court. While the district may argue that the RCAP needs to be amended
17 or modified, or offers some other excuse for their noncompliance, the fact remains that these
18 arguments are specious. If, indeed, there were terms that needed modification, the district
19 obviously had ample opportunity to make its case for those modifications, and did not do so.
20 *Consent Decree*, para. 7.²

21 The Superintendent and Board have, on more than one occasion, demonstrated
22 their outright disregard for the orders of this Court. There is always a proffered excuse for why
23 things have not been accomplished, but never a plan for how compliance with the RCAP will be
24 achieved. Empty promises have been repeatedly made, and now is the time for the
25 Superintendent and Board to be held accountable for their consistent failure to comply with the
26 specific orders of this Court.

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28 ² State defendants note that Paragraph 7 of the Consent Decree permitted the Monitor or the
parties to submit recommendations to supplement or modify the RCAP. A process was in place
for proposing any and all changes to the RCAP that the district, or any party, thought necessary.
The district, however, did nothing to utilize this process.

One possible alternative is for this Court to utilize its contempt powers and remedial powers to order the temporary suspension of the authority of the Superintendent and the Board over the operations of the entire district until there is a system in place to ensure compliance with the Court's orders. This could potentially be done pursuant to existing statutes (Ed. Code sec. 41320, et seq.), as noted above or, the Court could decide to create a different model for a takeover, based upon the facts presented at the June 18, 2002 hearing.

While this case involves special education, this Court has already recognized that a partial receivership would be impracticable. The remedial focus must be broader. Indeed, in footnote 25 of the Court's *Order Re: Contempt*, at page 36, the Court noted that:

"...the uncontroverted evidence before the Court demonstrates that the provision of regular and special education services are so closely intertwined that it is essentially impossible, to effectively appoint an administrator to oversee one element and not the other. [Citations omitted.] Ravenswood appears to be in agreement with this point as well. *See*, Ravenswood's August 31, 2001 Submission at 9 ('It is equally important that. . .[any system] recognize that special education is a subset of the general education system. . . Any temptation to create a separate management system for special education must be avoided'); Knight, July 26, 2001 Tr. At 65. ('If you are going to improve the quality of special education you must start with regular education.') Accordingly, creating a 'partial receivership' or 'co-superintendent' that is just responsible for special education does not appear to be a viable approach and would instead result in parallel administrative structures that would likely create more problems than they solve."

Thus, given the Superintendent and the Board's shortcomings in leadership and their complete disregard for this Court's orders, one possible solution before the Court is to order a complete takeover of RCSD.

II.

THE COURT SHOULD CONSIDER ORDERING A CHANGE IN THE LEADERSHIP STRUCTURE AT RCSD

This Court is faced with a very unique situation. It has before it perhaps the only school district in California that has been found in contempt, with overwhelming evidence of

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3 noncompliance with the Court's specific orders. Further, this Court has overwhelming evidence
4 of a leadership that has demonstrated deliberate indifference -- not only to the orders of this
5 Court, but also to the needs of its children and to the basic operations of the school district. The
6 failure of the local officials to give effect to the Court's orders in a meaningful manner creates
7 the compelling circumstances justifying the strongest remedial response.

8 CDE recognizes that there may be other solutions the Court may consider, and
9 that there may be an opportunity for the citizens of the RCSD community to elect new leaders at
10 the November elections. But, until that occurs, there is no guarantee that anything will change;
11 and the probability exists that nothing will change after the election. In order to ensure
12 meaningful changes in the district, it is critical that a structure, other than the existing structure,
13 be imposed upon the district.

14 **A. Education Code Section 41320**

15 While CDE acknowledges that this case involves issues pertinent to special
16 education, the Court also has before it a report commissioned by the San Mateo County
17 Superintendent of Schools regarding the management of RCSD's finances, that cannot be
18 ignored.

19 On March 1, 2002, Floyd Gonella, San Mateo County Superintendent of Schools,
20 released the *Review of Ravenswood City School District's Management and Fiscal Policies,*
21 *Procedures and Practices* [hereinafter "FCMAT Report"]. State Defendants' Status Conference
22 Statement, Exhibit A. In this report, Mr. Gonella states that the instances of mismanagement
23 cited within the FCMAT Report are "pervasive, numerous, and long standing. Given the
24 number and severity of these deficiencies, it is reasonable to conclude that the district senior
25 leadership responsible for them is negligent. By any standard, their performance is
26 unacceptable." *Id.* p. 1.

27 Indeed, the FCMAT Report finds, among other things, that the district's adopted
28 budget has an operating deficit in the unrestricted general fund. *FCMAT Report*, p. 29. The
report states that the adopted budget reflects an estimated fund balance, as of June 30, 2002, of
\$3,718,896. *Id.* The report also notes that "An operating deficit of this magnitude will

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3 necessitate significant reductions in the district's programs in future years in order to avoid
4 insolvency." *Id.* The report notes that the adopted budget was apparently developed under the
5 assumption that the district's ending fund balance as of June 30, 2001 for the unrestricted
6 general fund would be \$6,080,980. *Id.* However, once the district's books were closed, the
7 report notes that the district actually ended the year with a fund balance of only \$3,688,018. *Id.*
8 The FCMAT Report highlights the fact that this decline in fund balance of over \$2,392,962
9 reveals that the district's financial picture for 2001-02 and future years is very bleak. *Id.*

10 This finding is significant in that it may signal the fact that, without new
11 management, the district could very well be looking at insolvency. There is, accordingly, an
12 existing process that the Court may wish to consider with respect to RCSD. If the district is
13 faced with potential financial hardships, as indicated in the FCMAT Report, the Court should
14 consider ordering the Board to apply for an emergency apportionment (loan) pursuant to the
15 procedures set forth in Education Code section 41320, et seq. Ordinarily, a school district that
16 determines that its revenues are insufficient may request such an emergency apportionment. Ed.
17 Code sec. 41320.2. Acceptance of the apportionment constitutes an agreement by the district to
18 appointment by the Superintendent of Public Instruction of a trustee who may stay or rescind
19 actions of the Board that may affect the financial condition of the district. Ed. Code sec.
20 41320.1, subd. (a). Alternatively, if the apportionment exceeds a specified standard, acceptance
21 constitutes an agreement of the assumption by the Superintendent of Public Instruction of the
22 legal rights, duties, and powers of the board. Ed. Code. Sec. 41326, subds. (a) and (b).

23 Education Code section 41320, et seq., provides for an independent audit of the
24 financial conditions and budgetary controls of a district, a management review conducted by a
25 qualified management consultant, and a fiscal plan adopted by the governing board to resolve
26 the financial problems of the district. The county superintendent would then be required to
27 review, and to provide written comment on, the independent auditor's report, the management
28 review, and the district's plan. Ed. Code sec. 41320, subd. (b). The report would also have to
be reviewed by the Superintendent of Public Instruction, the State Auditor General, the
Legislative

Budget Committee, the State Director of Finance and the State Controller. *Id.* The Court could also require the filing of the report with the Court.

In addition to ordering the district to apply for an emergency apportionment, the Court could appoint a temporary Director of Special Education. The Court could grant the Director full and complete access to the finances of the district and authority to make other decisions reasonably necessary to implement the RCAP. This authority would be necessary because of the demonstrated failure of the existing Superintendent and the Board to implement the RCAP. Full and complete authority over personnel, curriculum, and other related areas is necessary to ensure the complete delivery of special education services to the students of RCSD consistent with the RCAP and the orders of this Court.

The use of the provisions of Education Code section 41320, et seq. would not preclude the Court from making any other changes, as it deems appropriate. Once a more complete picture of the district emerges as a result of the fiscal and management review, the Court would be in a better position and would have more complete information regarding the operations of the district, and could fashion a more appropriate remedy, depending upon the issues that arise.

B. Appointment of Chief Administrative Officer

Another possible remedy for this Court to consider is the temporary suspension of the authority of the Superintendent and the Board to act. The Court could order the transfer of the legal rights, duties, and powers of the Superintendent and Board to a Chief Administrative Officer (CAO) for a period of not less than thirty-six months and could extend the suspension, based upon the reports made to the Court. Based upon the evidence presented at the hearing on June 18th, the Court could order the temporary placement of the Superintendent on administrative leave, or order the Board to terminate her appointment altogether, based upon her conduct with respect to the RCAP.

CDE will provide its recommendations for appointment of a Chief Administrative Officer (CAO) and the pertinent vitae for its recommendations, for the Court's

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3 consideration prior to the hearing on June 18th.³ The qualifications and characteristics CDE
4 recommends for consideration are the possession of a masters' degree, experience as a
5 classroom teacher, experience as a principal, and experience as a superintendent. CDE also
6 recommends that any prospective CAO have extensive experience in public school
7 administration, management, fiscal issues, and special services such as special education. This
8 person should have a strong understanding of district school obligations -- particularly those
9 under the Individuals with Disabilities in Education Act (IDEA). This person should also have
10 excellent communication skills; work well with the community, staff and students; have a
11 demonstrated commitment to parental involvement in the educational opportunities for their
12 children; and have strong leadership qualities.

13 CDE would further propose that, in consultation with the Court Monitor, CDE
14 appoints one of its employees as a Coordinator assigned to consult with the CAO and to provide
15 technical or general assistance, as needed, for the district. The CDE Coordinator would meet
16 with the CAO as often as necessary, but at least once a month, until the CAO feels that the
17 district results are moving positively to provide quality education to all the students of the
18 districts.

19 The CAO, after consulting with the CDE Coordinator and Court Monitor, could
20 enter into a contract for consultant services with a superintendent of a local area district known
21 to have an effective service delivery system, or with another organization or agency with similar
22 experience in running an effective and efficient school district. Such a person, organization or
23 agency should be in close proximity to RCSD and could also assist in the development of the
24 kinds of transition services necessary in order to ensure that the necessary systemic change is in
25 fact implemented in RCSD at the local level. This consultant, organization or agency, could
26 also assist and advise the CAO on other appointments that would assist him or her in the
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³ Because the information contained in the vitae of the prospective candidates is personal information, state defendant CDE would request that the information be filed in camera for the Court's review and that disclosure of the resume be only made upon the appointment of the successful candidate.

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3 implementation of the RCAP and in effectuating the changes that are so badly needed for the
4 district.

5 Having a local consultant, within close proximity to the district could be
6 beneficial in terms of assisting the CAO in building the kinds of bridges with the community,
7 parents, students, and teachers that are now apparently lacking and are sorely needed. Such a
8 consultant could also be in the position to recommend effective service providers, and/or model
9 programs, that may be also within close proximity to the district.

10 The Court should order that all costs for such a contract be borne by the district.

11 **C. Powers of the Temporary Receiver or CAO**

12 The Court could also provide authority for the CAO to appoint staff as deemed
13 necessary, such as an Assistant Superintendent in charge of Administration, Personnel and
14 Fiscal Operations and an Assistant Superintendent in charge of Instruction, Programs, Process
15 and Support and Accountability. The salary and benefits of these individuals would be
16 established by the CAO and paid by RCSD. The CAO and the two Assistant Superintendents,
17 shall be deemed to be employees of RCSD for all purposes.

18 The Court should utilize its contempt powers to ensure that the employment of
19 any person whose duties include overseeing, managing, or otherwise directing the fiscal and
20 budgetary operations of the school district, the implementation of the RCAP, Special Education
21 Services, or General Education, and who is employed by the district under a contract of
22 employment signed or renewed prior to the effective date of the Court's order for receivership,
23 may be terminated by the CAO, in accordance with appropriate notice and hearing procedures,
24 if the employee fails to document to the CAO's satisfaction that the individual employee intends
25 to comply with the orders of this Court, or for any other cause consistent with the respective
26 contracts with the district.

27 The Court should stay or rescind any and all past actions taken by the
28 Superintendent and/or Board, and should invest the CAO authority to reinstate any action that,
in consultation with CDE and in the judgment of the CAO, effects compliance with the RCAP
or further any other aspect of the effective functioning operations of a district.

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3 The Court should also order that copies of the Order appointing the CAO be distributed
4 to all employees of the district, and should make clear that the CAO has the complete authority
5 and powers to run the district. To the extent it is necessary, the Court should also order that all
6 documents, books, or records, whether on paper or electronic, be preserved and that no such
7 documents, books, or records, whether paper or electronic, be destroyed or altered by existing
8 personnel.

9 **D. Periodic Reports of Progress to the Court**

10 The CAO should be required to file a progress report with the Court, and to serve
11 the report on the Monitor, plaintiffs' counsel, and counsel for CDE, during the duration of this
12 appointment. The reporting period should be in three-month increments, and the progress of the
13 district in meeting compliance will determine how soon authority and responsibilities will be
14 restored to the Superintendent and the Board of Trustees. The report should include the
15 progress to date and the expected progress for the next three-month reporting period.

16 Any changes to the reporting period or content should be made in consultation
17 with the CDE Coordinator and the Court Monitor, with approval from the Court. Or the Court,
18 on its own motion, based upon the reports provided to the Court, could adjust the reporting
19 period consistent with the progress being made by the district.

20 **III.**

21 **THE FIRST THIRTY DAYS OF THE TAKEOVER**

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23 After a CAO has been appointed by the Court, the CAO should schedule a
24 meeting, as soon as possible, with the CDE Coordinator, the San Mateo County Superintendent
25 of Schools, FCMAT, and the Court Monitor to assess the status of the district and its overall
26 operations. The meeting should result in the development of the immediate steps necessary to
27 ensure the continued functioning of the educational program and administrative services with
28 RCSD.

Using the FCMAT Report issued on March 1, 2002 and commissioned by the
San Mateo County Superintendent of Schools, an urgent fiscal and management review should

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3 be undertaken of RCSD in order to determine management priorities, required district processes,
4 and resource allocation issues, including those affecting the implementation of the RCAP.

5 Priority should also be given to instituting the recommendations made in the FCMAT Report.

6 An immediate review should also be undertaken of all key district functions that
7 may be suffering as a result of administrative neglect. These functions include personnel,
8 facilities and maintenance programs, workers compensation program, hourly wage accounting,
9 attendance accounting, and nutrition programs.

10 An immediate review of all administrative services, operating procedures, and
11 core educational programs should also be undertaken. This includes review of signature
12 authority and restriction of that authority to the CAO. This is an essential requirement, so that
13 the CAO can understand the flow of resources into and out of the district and sites, as well as to
14 other commitments. Few delegations of this authority should be permitted until a clearer picture
15 of the status of RCSD emerges. The Court should make clear that the CAO has all the legal
16 powers of the Superintendent and Board to change contracts and make personnel and budget
17 decisions.

18 An immediate review of the status of the RCAP is another priority for the CAO.
19 The CAO should provide clear direction to the staff in the areas of both regular education and
20 special education with respect to special education issues, workload planning, and resource
21 allocation. The CAO and the CAO's team should quickly identify any backlogs in services that
22 can be accommodated through existing staff or through identifying additional capacity to serve
23 the children of RCSD. These backlogs may include screening, psychological services, IEP
24 meetings, or other required elements of the Individuals with Disabilities in Education Act
25 (IDEA) or of state law governing special education.

26 An immediate meeting should be held with community leaders, such as the
27 teachers' union, employee organizations, special education parents, parents of English learners,
28 and other interested members of the community, to introduce the new leadership and explain the
role of the CAO, the CDE Coordinator, and the Court Monitor with respect to the activities

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3 occurring at RCSD. Advisory committees may be formed to ensure that the community has
4 input into the necessary changes to the operations of the district.

5 **IV.**

6 **DEVELOPMENT OF DISTRICT STRATEGIC PLAN**

7 Another priority for the CAO is the development of a district strategic plan, in
8 the event that one does not currently exist, or if the CAO finds it to be inadequate. The
9 development of such a plan may be influenced by the review conducted during the first thirty
10 days of the Court's Order, but CDE recommends that this be a priority for the CAO.

11 The first step in the development of such a plan would be the holding of a public
12 meeting for the district. The CAO should invite all interested parties, including but not limited
13 to parents, legal guardians, employee organizations, and community members. At this meeting
14 or series of meetings, depending upon size and interest of the community, the CAO should
15 solicit the recommendations and opinions of the respective segments of the community
16 impacted by the management, or lack thereof, of RCSD schools. The opinions and
17 recommendations obtained as a result of these meetings should be considered in the
18 development of the district strategic plan. All interested parties, including but not limited to
19 parents, legal guardians, employee organizations, and community members should also be
20 allowed to provide their recommendations and opinions in writing.

21 The development of the plan should include a review of all school sites,
22 identifying weaknesses in the effective operation and delivery of services at each school site,
23 and making recommendations for improvement. The ranking of each school in the Academic
24 Performance Index shall also be reviewed, along with any protocols and procedures for
25 participation, past or present, with the State's testing program, such as the Standardized Testing
26 and Reporting Program (STAR).

27 The development of the plan should include an identification of all the barriers to
28 education at each school with an eye towards improvement and to identifying school strategies
to remove these barriers. It should also include a review of the school district crime statistics,
pursuant to Penal Code section 628.5.

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3 The disaggregated data regarding pupil achievement and other indicators for each
4 school should be reviewed in order to consider whether all groups and types of pupils are
5 making adequate progress toward short-term growth targets and long-term performance goals.
6 The disaggregated data to be considered should provide information regarding the achievement
7 of English language learners, pupils with exceptional needs, pupils who qualify for free and
8 reduced price meals, and all pupils by race, ethnicity, and gender.

9 After gathering and reviewing all this data, a district strategic plan should be
10 developed which should result in a system that focuses upon implementation of the RCAP,
11 improving pupil academic performance, improving the involvement of parents and guardians,
12 improving the effective and efficient allocation of resources and management at each school site
13 in the district, and identifying and developing solutions that take into account improvement of
14 the conditions for the students in RCSD.

15 V.

16 **TIMELINES FOR TRANSITION OF POWER BACK** 17 **TO THE DISTRICT**

18 CDE recognizes that direct judicial intervention in the operation of a school
19 system is not to be welcomed and it should not be continued longer than necessary. *Morgan v.*
20 *McDonough, supra* at 540 F.2d 527, 533. Therefore, CDE recommends an evaluation for the
21 transition of the authority of back to the Superintendent and the Board to begin at the end of a
22 period of not less than twenty-four months, and subject to the discretion of the Court. Effective
23 transition can happen only upon demonstrated evidence that the district is making progress in
24 complying with the Court's orders and that the Superintendent and the Board have demonstrated
25 unquestioned good faith and accountability -- not only to the citizens of the district, but also to
26 the students.

27 CDE therefore recommends that, during the first twelve months of the takeover,
28 the CAO shall make available to the Superintendent and Board, resources for training related to
any and all aspects of the administration for an effective, comprehensive service delivery

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3 system. The Court shall order the existing Superintendent to attend and to successfully
4 complete, training sessions focused on responsibilities and accountability issues for
5 administrators of school districts, as determined by the CAO, CDE Coordinator and Court
6 Monitor.

7 Similarly, CDE recommends that, during the first twelve months of the takeover,
8 the Court order the existing members of the Board and, in November, the newly elected
9 members of the Board, to attend and to successfully complete similar training sessions.

10 After the first twelve months of training, the members of the Board should be
11 ordered to attend at least four decision-making meetings with the CAO and his/her staff. At this
12 time, the CAO, in collaboration with and upon approval of the CDE Coordinator and the Court
13 Monitor, may elect to have the board begin to assist the CAO in an advisory capacity only. If
14 the Court determines that sufficient progress is being made after the first six months, the Court
15 could permit the board to meet on a regular basis in order to obtain public input with respect to
16 the progress of the district.

17 At the end of the twenty-four month period, the CAO, in collaboration with the
18 Court Monitor, should begin the evaluation process to determine the Superintendent's and the
19 Board's willingness and competence to assume the powers previously suspended. The CAO, in
20 consultation with the CDE Coordinator and the Court Monitor, should certify to the Court,
21 based upon the progress to date, that the Superintendent and the Board were ready to move into
22 a decision making role, and would specify the extent to which the powers and authority
23 temporarily suspended, may be returned to the Superintendent and the Board on an incremental
24 basis, or in a manner the Court deems appropriate.

25 Upon issuance of this Court's order, all site administrators (principals and
26 assistant principals) should successfully attend and complete, as determined by the CAO, in
27 consultation with the CDE Coordinator and the Court Monitor, training in their roles and
28 responsibilities with respect to their duties for special education children. At the end of the
twenty-four month period, the CDE Coordinator and the CAO, in consultation with the Court

Monitor, would begin the evaluation process in order to certify to the Court that the site administrators were sufficiently trained, willing, and competent to handle their roles and responsibilities as site administrators. Upon receipt of this certification, the Court could then determine whether to restore the authority of district staff to manage the district.

The CAO, in consultation with the CDE Coordinator and the Special Education Local Plan Agency (SELPA), should be required to select a District Director of Special Education. This person would be required to attend all SELPA trainings for special education in San Mateo County. At the end of the twenty-four month period, the CDE Coordinator and the CAO, in consultation with the Court Monitor, should begin the evaluation to certify to the Court that the Director of Special Education is sufficiently trained, willing, and competent to handle his/her role and responsibilities as the Director of Special Education, and the Court would then permit the Director to function independently from the CAO, consistent with the district strategic plan.

CONCLUSION

In the absence of a complete hearing on the evidence involved in this case, it is difficult to provide the Court with a more specific remedy for the contempt of RCSD. What is clear, however, is that a new and different management structure is needed at RCSD if conditions at RCSD are to improve. This Court has provided RCSD with ample opportunities to demonstrate compliance with its orders, but the current management at RCSD has continually demonstrated its unwillingness to do so.

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3 Consequently, state defendants submit the only appropriate action to remedy this
4 unforgivable situation is to impose a new management structure at RCSD.
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6 Date: May 31, 2002

Respectfully Submitted,

7 LINDA A. CABATIC

8 General Counsel

DANIEL G. STONE

9 Assistant General Counsel

DEREK LEDDA

10 Deputy General Counsel

EDMUNDO AGUILAR

11 Deputy General Counsel
12
13

14 By: _____

EDMUNDO AGUILAR

15 Deputy General Counsel

16 Attorneys for Defendants California
17 Department of Education, the
18 Superintendent of Public Instruction,
19 Delaine Eastin in her individual capacity,
20 the State Board of Education, and any past
21 or present member of the State Board of
22 Education in their individual capacities.
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